



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,057	09/25/2000	Bruce Brumberg	BRUM-101	2821
7590	01/27/2006		EXAMINER PATEL, JAGDISH	
Robert K Tendler 65 Atlantic Avenue Boston, MA 02110			ART UNIT 3624	PAPER NUMBER
DATE MAILED: 01/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/669,057	<b>Applicant(s)</b> BRUMBERG, BRUCE	
	<b>Examiner</b> JAGDISH PATEL	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to amendment filed 12/17/04.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/17/04 including after final amendment dated 11/1/9/04 has been entered.

#### ***Response to Amendment and Arguments***

3. Claim 1 has been amended. Claims 1-16 are currently pending and subject of this communication. Additionally the examiner has withdrawn the rejection of claims under 35 USC 102(e) over Schultz (US Pub. No. 2001/0056391 A1) reference as discussed in the previous final office action.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3624

5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The amended claim(s) recites “modeling a projected outcome customized to the individual needs..”. This limitation is vague and unclear because there is nothing in the claim that pertains to the individual participant. The phrase “modeling a projected outcome..individualized needs” is interpreted as “calculating a projected outcome for individual participant’s needs”. It is not clear how this process can be accomplished without defining the individual (participant’s) needs. Further the term “needs” is abstract since it cannot be quantified.

The claim further recites “the results of the modeling done at the central server.” There is no antecedent basis for this limitation in the claim. The “modeling” limitation does cause any results. Is the “projected outcome” the results of the modeling as the examiner has interpreted? If so, the claim has no basis to determine such results not the results are recited as being done at the server.

The claim further recites that the user provides inputs to the central server specifying the user generated parameters relative to the stock option plan ..used in the modeling. However, this there is no connection made of this step to the previous “modeling step” which is customized to “the individual needs”.

The examiner also notes that the statement “such that the user-defined information is used in the modeling” is treated as intended use of the “user-provided information”. It is suggested that the claim be amended to clearly provide inter-relationship among the limitations

Art Unit: 3624

“customized ..individual needs”, “user generated parameters” and “user-provided information” and the “modeling”.

The claim is also rendered indefinite because, it fails to specifically recite the manner in which the user-provided information is transformed into the projected outcome. One of ordinary skill in the art can not determine (or model) a projected outcome of any financial account without knowing the manner in which this inputs are used in the modeling. Alternatively the claimed method must define what the modeling process entails in terms of the user inputs and/or user needs.

7. Note that the limitation “to permit the individual to make decisions which will result in the optimization of the value of the plan” is intended use of the information about the stock option plan. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, no patentable weight is given to this limitation.

Based upon the foregoing analysis of the deficiencies in the present form of the method claim 1, the claimed invention is vague and unclear and therefore indefinite.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3624

9. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macey (US Pat. 6947904) and further in view of PR Newswire “Share the Wealth”.

Macey teaches a method of providing an individual with education and training about retirement planning account of an individual. Macey stores relevant information about the retirement planning account, models a projected outcome customized to the individual needs. Macey further teaches that the storing and modeling processes are performed at a server which is accessible by an individual who interacts with the server via a user terminal. (refer to entire specification).

PR Newswire teaches that there is a need for education and modeling of individual (employees) stock option plan so as to create a degree of understanding about being an investor in a company’s stock option plan. PR Newswire also teaches both “education” and “financial planning” aspects of the stock ownership plan as it concerns the needs of individual employee. (refer to entire reference).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine teachings of Macey and PR Newswire reference to devise a method as claimed for providing an individual with education and training about an employee stock option plan as discussed in the foregoing analysis because such method would enable the employee to manage his stock option plan in manner similar to his retirement investment account, educate the individual about his stock ownership account as explicitly suggested in the applied references.

Art Unit: 3624

Regarding claims 3-16 it is asserted that various features claimed therein are essential to the management of the stock option plan and in general any investment strategy.

It would have been obvious to one of ordinary skill in the art at the time of the invention to further incorporate such features in combination of Macey and PR Newswire references for the benefit of the individual participant.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

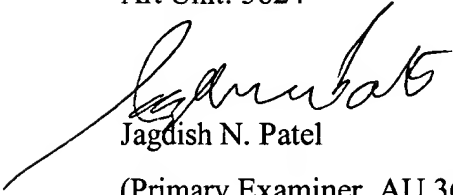
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/669,057

Page 7

Art Unit: 3624

A handwritten signature in black ink, appearing to read 'Jagdish N. Patel', is written over the printed name.

Jagdish N. Patel

(Primary Examiner, AU 3624)

1/23/06